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IN THE UNITED STATES
PATENT AND TRADEMARK OFFICE

PATENT APPLICATION

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Appellants: **William D. Swart et al.**   Case: **SEDN/12164**

Serial No.: **09/973,067**   Examiner: **Saltarelli, Dominic D.**

Filed: **10/10/01**   Group Art Unit: **2623**

Confirmation #: **5257**

Title: **VIDEO AND DIGITAL MULTIMEDIA AGGREGATOR CONTENT CODING AND FORMATTING**

MAIL STOP APPEAL BRIEF-PATENTS
Commissioner for Patents
P.O. Box 1450
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SIR:

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APPEAL BRIEF

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Appellants submit this Appeal Brief to the Board of Patent Appeals and Interferences on appeal from the decision of the Examiner of Group Art Unit 2623 mailed April 1, 2008 finally rejecting claims 1, 3-10 and 12-22.

In the event that an extension of time is required for this Appeal brief to be considered timely, and a petition therefor does not otherwise accompany this Amended Appeal Brief, any necessary extension of time is hereby petitioned for.

Appellants believe the only fee due is the $510 Appeal Brief fee which is being charged to counsel's credit card. In the event Appellants are incorrect, the Commissioner is authorized to charge any other fees to Deposit Account No. 20-0782/**SEDN/12164**.

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Real Party in Interest

The real party in interest is SEDNA PATENT SERVICES, LLC.

Related Appeals and Interferences

Appellants assert that no appeals or interferences are known to Appellants, Appellants' legal representative, or assignee which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

Status of Claims

Claims 1, 3-10 and 12-22 are pending in the application. Claims 1-22 were originally presented in the application. Claims 2 and 11 are canceled without prejudice. Claims 1, 3, 5-7, 10, 12, 14-16, 18 and 20 have been amended. Claims 1, 3-10 and 12-22 stand finally rejected as discussed below. The final rejection of claims 1, 3-10 and 12-22 is appealed.

Status of Amendments

All claim amendments have been entered.

Summary of Claimed Subject Matter

Embodiments of the present invention generally are directed to a video and digital multimedia aggregator system and method. Program content can be packaged and delivered by the system. Notably, one embodiment of the present invention allows a user to request content in one of many available content formats and the system and method formats the requested content into the requested format.

For the convenience of the Board of Patent Appeals and Interferences, Appellants' independent claims 1 and 10 are presented below in claim format with elements reading on the various figures of the drawings and appropriate citations to at least one portion of the specification for each element of the appealed claims.

Claim 1 positively recites (with reference numerals, where applicable and cites to at least one portion of the specification added):

1.   A method for formatting and coding content for storage and delivery, comprising:

providing at least two different formats for content storage (p. 13, ll. 7-29);

receiving a coding and formatting request in one of at least two different formats from a user (p. 13, ll. 26-29);

analyzing parameters contained in the coding and formatting request from said user (p. 14, ll. 5-8);

configuring a formatting codec in one of at least two different formats for content delivery using the analyzed parameters (p. 14, ll. 14-15);

decoding, formatting, and coding target content using the configured formatting codec, whereby coded target output content is produced in accordance with the coding and formatting request received from the user (p. 14, ll. 1-4); and

routing the coded target output content to one or more target addresses (p. 23, ll. 22-27);

wherein the method further includes processing auxiliary services that comprises (p. 15, ll. 24-26):

  analyzing auxiliary services processing requests in the coding and formatting request (p. 21, ll. 16-20),

  configuring one or more auxiliary services processes to generate requested auxiliary services (p. 21, ll. 20-21), and

  outputting the requested auxiliary services, wherein the outputted auxiliary services are combined with the coded target output content (p. 23, ll. 19-21).

Claim 10 positively recites (with reference numerals, where applicable and cites to at least one portion of the specification added):

10. An apparatus (201) that decodes, formats, and codes content for storage and delivery, comprising:

  means for providing (201) at least two different formats for content storage (p. 13, ll. 7-29);

  means for receiving (253, 271) a coding and formatting request in one of at least two different formats from a user (p. 13, ll. 26-29);

  means for analyzing (253, 274) parameters contained in the coding and formatting request from said user (p. 14, ll. 5-8);

  means for decoding, formatting (253, 274) in at least one of two different formats for content delivery and coding target content (p. 14, ll. 1-4);

  means for configuring (253, 274) the means for decoding, formatting and coding target content, whereby coded target output content is produced in accordance with the coding and formatting request received from the user (*Id.*); and

  means for routing (253, 272) coded target output content to one or more target addresses (p. 23, ll. 22-27);

  further comprising means for processing (253, 276) auxiliary services, comprising (p. 15, ll. 24-26):

means for analyzing (253, 276) auxiliary service requests in the coding and formatting request (p. 21, ll. 16-20);

means for configuring (253, 276) one or more auxiliary services processing means to supply the requested auxiliary services (p. 21, ll. 20-21); and

means for outputting (253, 276) the requested auxiliary services, whereby the outputted auxiliary services are combined with the coded target output content (p. 23, ll. 19-21).

Grounds of Rejection to be Reviewed on Appeal

The Examiner has rejected claims 1, 3-10 and 12-22 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 5,600,573 to Hendricks (hereinafter "Hendricks") in view of U.S. Patent 6,088,732 to Smith et al. (hereinafter "Smith").

ARGUMENTS

I. THE EXAMINER FAILED TO ESTABLISH A *PRIMA FACIE* CASE OF OBVIOUSNESS UNDER 35 U.S.C. § 103 BECAUSE THE COMBINATION OF HENDRICKS IN VIEW OF SMITH FAILS TO TEACH OR SUGGEST ALL OF THE CLAIM LIMITATIONS OF INDEPENDENT CLAIMS 1 AND 10.

A.   Claims 1, 3-10 and 12-22

The Examiner has rejected claims 1, 3-10 and 12-22 under 35 U.S.C. §103(a) as being unpatentable over Hendricks in view of Smith. Appellants respectfully traverse the rejection.

Hendricks teaches an operations center with video storage for a television program packaging and delivery system. (See Hendricks, Abstract).

Smith teaches a control of data transfers and distributed data processing based on resource currently available at remote apparatus. Smith teaches that a comparator may compare the resources available on an information destination to determine if the requested information can be passed to the information destination from the information source. (See Smith, col. 5, l. 40 – col. 6, l. 61).

Appellants respectfully submit that Hendricks and Smith, alone or in any permissible combination fail to teach or suggest a method or apparatus for formatting and coding content for storage and delivery comprising <u>receiving a coding and formatting request in one of at least two different formats from a user</u> and decoding, formatting, and coding target content using the configured formatting codec<u>, whereby coded target output content is produced in accordance with the coding and formatting request received from the user</u>, as positively claimed by Appellants' independent claims 1 and 10. Specifically, Appellants' independent claim 1, and similarly independent claim 10, positively recite:

> 1.   A method for formatting and coding content for storage and delivery, comprising:
>   providing at least two different formats for content storage;

> receiving a coding and formatting request in one of at least two different formats from a user;
>
> analyzing parameters contained in the coding and formatting request from said user;
>
> configuring a formatting codec in one of at least two different formats for content delivery using the analyzed parameters;
>
> decoding, formatting, and coding target content using the configured formatting codec, whereby coded target output content is produced in accordance with the coding and formatting request received from the user; and
>
> routing the coded target output content to one or more target addresses;
>
> wherein the method further includes processing auxiliary services that comprises:
>
> > analyzing auxiliary services processing requests in the coding and formatting request,
> >
> > configuring one or more auxiliary services processes to generate requested auxiliary services, and
> >
> > outputting the requested auxiliary services, wherein the outputted auxiliary services are combined with the coded target output content. (Emphasis added).

In one embodiment, Appellants' invention teaches a method or apparatus for formatting and coding content for storage and delivery comprising receiving a coding and formatting request in one of at least two different formats from a user and decoding, formatting, and coding target content using the configured formatting codec, whereby coded target output content is produced in accordance with the coding and formatting request received from the user.

Appellants respectfully submit that Hendricks and Smith, alone or in any permissible combination, fail to render obvious Appellants' invention because Hendricks and Smith fail to teach or suggest a method or apparatus for formatting and coding content for storage and delivery comprising receiving a coding and formatting request in one of at least two different formats from a user and decoding, formatting, and coding target content using the configured formatting codec, whereby coded target output content is produced in accordance with the coding and formatting request received from the user. The Examiner concedes that Hendricks fails to teach or suggest that a coding and formatting request in one of at least two different formats is received from a user.

(See Final Office Action, p. 5, ll. 6-7). However, the Examiner asserts that Smith bridges the substantial gap left by Hendricks. Appellants respectfully disagree.

Smith fails to bridge the substantial gap left by Hendricks because Smith also fails to teach or suggest a method or apparatus for formatting and coding content for storage and delivery comprising <u>receiving a coding and formatting request in one of at least two different formats from a user</u> and decoding, formatting, and coding target content using the configured formatting codec<u>, whereby coded target output content is produced in accordance with the coding and formatting request received from the user</u>. Notably, Smith teaches that the apparatus resources are passed to a comparator to determine whether the information requested and the information destination are compatible. (See Smith, col. 5, l. 41 – col. 6, l. 7). <u>If</u> they are compatible, the requested information is passed to the information destination. (See <i>Id.</i>, emphasis added). Smith further teaches that "[i]f these resources do not meet the requirements of the application profile, then the service <u>cannot be provided over the network</u> or at least over certain communication links in the user." and "[t]hus [sic] the service <u>can only be provided when the requirements of the user's profile and the application profile are met by the terminal profile and the network profile</u>." (See <i>Id.</i> at col. 6, ll. 43-55, emphasis added). Therefore, Smith clearly teaches that a user <u>does not request a specific coding and formatting</u>. Rather, Smith simply passes the specifications of the user's information source to a comparator <u>to determine if</u> the user can receive the requested information.

To illustrate the subtle, yet clear distinction between Smith and Appellants' invention, Smith teaches that a user may not receive the requested information if the information requirements are not met by the information destination. (See Smith, col. 5, l. 41 – col. 6, l. 7). In stark contrast, as recited by the amended independent claims 1 and 10, Appellants' invention teaches that the <u>coded target output content is produced in accordance with the coding and formatting request received from the user</u>. Thus, the intelligence of Appellants' invention allows a user's request for a type of formatting and coding to be met, unlike Smith which only teaches a comparator that determines <u>if the requirements of the requested</u>

information can be met by the user's information destination. Thus, even if Hendricks and Smith were permissibly combined, the combination of Hendricks and Smith would fail to teach or suggest a method or apparatus for formatting and coding content for storage and delivery comprising receiving a coding and formatting request in one of at least two different formats from a user and decoding, formatting, and coding target content using the configured formatting codec, whereby coded target output content is produced in accordance with the coding and formatting request received from the user.

Furthermore, as previously argued, Appellants' claims 1 and 10 teach that the auxiliary service requests are provided in the coding and formatting requested from a user. This is also not taught or suggested in the combined teaching of Hendricks and Smith.

For example, Hendricks teaches an ad insertion component (which is a part of a computer-assisted packaging (CAP) system in an operations center) that determines what advertisements will be inserted into the program lineup (col. 10, lines 52-55; Fig. 2). A CAP interaction module receives from the CAP system scheduling information including any ad insertions (col. 13, lines 48-51). Hendricks also teaches that an advertisement insertion routine receives data from the system controller on advertisements that are available to be inserted and their storage location, as well as other information relating to the advertisements (col. 17, lines 49-67).

However, there is no teaching in these sections of Hendricks that the auxiliary service requests are in the coding and formatting request from the user. In addition, there is no teaching in Smith that the user's profile defines or requests any auxiliary services in the coding and formatting request. As such, the combined teaching of Hendricks and Smith does not teach each and every element in Appellants' amended claims 1 and 10. Thus, independent claims 1 and 10 are patentable over Hendricks in view of Smith under 35 U.S.C. 103(a). Independent claim 10 recites relevant limitations similar to those recited in independent claim 1. Accordingly, for at least the same reasons discussed

above, independent claim 10 also is patentable over Hendricks in view of Smith under 35 U.S.C. §103.

Furthermore, claims 3-9 and 12-22 depend directly or indirectly from independent claims 1 and 10, while adding additional elements. Therefore, these dependent claims also are patentable over Hendricks in view of Smith under 35 U.S.C. §103 for at least the same reasons discussed above in connection with independent claims 1 and 10. Therefore, Appellants respectfully request that the Examiner's rejection be withdrawn.

CONCLUSION

Thus, Appellants submit that all of the claims presently in the application are allowable under the provision of 35 U.S.C. §103.

For the reasons advanced above, Appellants respectfully urge that the rejection of claims 1, 3-10 and 12-22 is improper. Reversal of the rejection of the Final Office Action is respectfully requested.

Respectfully submitted,

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Date

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CLAIMS APPENDIX

1.   (previously presented) A method for formatting and coding content for storage and delivery, comprising:

 providing at least two different formats for content storage;

 receiving a coding and formatting request in one of at least two different formats from a user;

 analyzing parameters contained in the coding and formatting request from said user;

 configuring a formatting codec in one of at least two different formats for content delivery using the analyzed parameters;

 decoding, formatting, and coding target content using the configured formatting codec, whereby coded target output content is produced in accordance with the coding and formatting request received from the user; and

 routing the coded target output content to one or more target addresses;

 wherein the method further includes processing auxiliary services that comprises:

  analyzing auxiliary services processing requests in the coding and formatting request,

  configuring one or more auxiliary services processes to generate requested auxiliary services, and

  outputting the requested auxiliary services, wherein the outputted auxiliary services are combined with the coded target output content.

2.   (canceled)

3.   (previously presented) The method of claim 1, further comprising parsing the requested auxiliary services and time code data.

4.   (original) The method of claim 3, further comprising synchronizing auxiliary service time code data and content time code data.

5. (previously presented) The method of claim 1, wherein the auxiliary services comprise one or more of closed captioning, descriptive video narration, alternative language audio, content rating, critical review information, device control and commands, future content schedules, advertising, targeted advertising, text and data services, interactive services, and content metadata.

6. (previously presented) The method of claim 1, wherein auxiliary services are combined with requested source content, further comprising:

separating the auxiliary services from the requested source content;

processing the separated auxiliary services; and

combining selected separated auxiliary services with the coded target output content.

7. (previously presented) The method of claim 1, wherein the requested auxiliary services are separate from the requested content.

8. (original) The method of claim 1, further comprising polling formatting and coding resources, wherein available formatting and coding resources are identified.

9. (original) The method of claim 1, further comprising:

reading target content routing address information; and

configuring one or more target content routers based on the address information.

10. (previously presented) An apparatus that decodes, formats, and codes content for storage and delivery, comprising:

means for providing at least two different formats for content storage;

means for receiving a coding and formatting request in one of at least two different formats from a user;

means for analyzing parameters contained in the coding and formatting request from said user;

means for decoding, formatting in at least one of two different formats for content delivery and coding target content;

means for configuring the means for decoding, formatting and coding target content, whereby coded target output content is produced in accordance with the coding and formatting request received from the user; and

means for routing coded target output content to one or more target addresses;

further comprising means for processing auxiliary services, comprising:

means for analyzing auxiliary service requests in the coding and formatting request;

means for configuring one or more auxiliary services processing means to supply the requested auxiliary services; and

means for outputting the requested auxiliary services, whereby the outputted auxiliary services are combined with the coded target output content.

11. (canceled)

12. (previously presented) The apparatus of claim 10, further comprising means for parsing auxiliary services and auxiliary service time code data.

13. (original) The apparatus of claim 12, further comprising means for synchronizing the auxiliary service time code data and content time code data.

14. (previously presented) The apparatus of claim 10, whereby auxiliary services are combined with requested source content, further comprising:

means for separating the auxiliary services from the requested source content;

means for processing the separated auxiliary service; and

means for combining selected separated auxiliary services with the coded target output content.

15.   (previously presented) The apparatus of claim 10, wherein the requested auxiliary services are separate from the requested content, further comprising:

means for formatting and coding the requested auxiliary services; and

means for combining the requested formatted and coded auxiliary services and the coded target output content.

16.   (previously presented) The apparatus of claim 10, wherein the auxiliary services comprise one or more of closed captioning, descriptive video narration, alternative language audio, content rating, critical review information, device control and commands, future content schedules, advertising, targeted advertising, text and data services, interactive services, and content metadata.

17.   (original) The apparatus of claim 10, further comprising means for polling formatting and coding means, wherein available formatting and coding means are identified.

18.   (previously presented) The apparatus of claim 10, further comprising means for reading target content routing address information.

19.   (original) The apparatus of claim 18, further comprising means for configuring one or more means for routing target content based on the address information.

20.   (previously presented) The apparatus of claim 10, wherein the parameters contained in the coding and formatting request comprise one or more of a physical address, a logical address, coding parameters, compression parameters, format description, content size, description of auxiliary services, and metadata elements.

21.   (original) The apparatus of claim 10, further comprising means for applying forward error correction coding to target output content.

22.   (original) The apparatus of claim 10, wherein the target addresses include one or more of an aggregator local storage and a user terminal.

EVIDENCE APPENDIX

None

RELATED PROCEEDINGS APPENDIX

None